



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0267; FRL-9665-6]

Revisions to the California State Implementation Plan,
San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from wine storage. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATE: Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit comments, identified by docket number [DOCKET NUMBER], by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact

listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lily Wong, EPA Region IX, (415) 947-4114, wong.lily@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

Table 1 - Submitted Rule

Local Agency	Rule #	Rule Title	Adopted	Submitted
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Local Agency	Rule #	Rule Title	Adopted	Submitted
SJVUAPCD	4694	Wine Fermentation and Storage Tanks	12/15/05	11/18/11

On December 22, 2011, EPA determined that the November 18, 2011 submittal for SJVUAPCD Rule 4694 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 4694 in the SIP. CARB originally submitted Rule 4694 to EPA on June 16, 2006, and EPA will refer to that version of the rule as the "originally submitted Rule 4694." While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

On August 18, 2011, SJVUAPCD adopted Resolution No. 11-08-20 in which the Governing Board approved "... an amendment to its earlier SIP submittal of Rule 4694 (Wine Fermentation and Storage Tanks), as set forth in the strike-out version of the Rule, attached hereto and incorporated herein by this reference." The Resolution also stated that the strike-out text represents SJVUAPCD's withdrawal of those provisions for consideration by EPA for SIP approval. This revised SIP submittal of Rule 4694

was submitted to EPA from CARB on November 18, 2011, and will be referred to in this notice as the "amended submittal of Rule 4694."

C. What is the purpose of the submitted rule revision?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The amended submittal of Rule 4694 applies to wineries that store fermented wine in bulk containers (i.e., storage tanks), and requires that the stored wine be maintained at or below 75 degrees Fahrenheit and the storage tanks to be equipped with pressure-vacuum relief valves. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(1) and 193). The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81). Because Rule 4694 regulates major sources, Rule 4694 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
 2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
 3. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
- B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. SJVUAPCD evaluated RACT for emissions from wine fermentation and storage.

While EPA has not developed a CTG document for wine fermentation and storage, this category includes sources that emit more than 10 tons per year of VOCs (i.e., major sources). Consequently, Rule 4694 must fulfill RACT.

SJVUAPCD evaluated six technologies for controlling emissions from wine fermentation and wine storage. SJVUAPCD concluded that while the control technologies were

technologically feasible, they were not demonstrated to be economically feasible at this time. Furthermore, SJVUAPCD determined that there are no control technologies currently achieved in practice in this source category. Consequently, SJVUAPCD concluded that there are no reasonably available control technologies for wine fermentation and wine storage.

EPA agrees with SJVUAPCD's conclusion that emission controls have not been demonstrated in practice for wine fermentation emissions on the scale of the affected facilities. Therefore EPA agrees that RACT for wine fermentation emissions at this time is no controls.

For wine storage emissions, SJVUAPCD concluded that the six control technologies as well as the use of pressure-vacuum relief valves and temperature control was not cost effective and that RACT for wine storage is also no controls. We note however that the amended submittal of Rule 4694 requires pressure-vacuum relief valves and temperature control, and EPA is not aware of reasonably available control technology that might be beyond this control technology. EPA therefore concludes that the amended submittal of Rule 4694 meets or exceeds RACT for emissions from wine storage. The TSD has more information on our evaluation.

C. Public comment and final action.

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as

described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

On January 10, 2012, EPA partially approved and partially disapproved the RACT SIP submitted by California on June 18, 2009 for the SJV extreme ozone nonattainment area (2009 RACT SIP), based in part on our conclusion that the State had not fully satisfied CAA section 182 RACT requirements for wine fermentation and storage tank operations. See 77 FR 1417, 1425 (January 10, 2012). Final approval of Rule 4694 would satisfy California's obligation to implement RACT under CAA section 182 for this source category for the 1-hour ozone and 1997 8-hour ozone NAAQS.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: April 13, 2012 Jared Blumenfeld,
Regional Administrator,
Region IX.

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Date: 04/30/2012]